

**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF OKLAHOMA**

ANTHONY SANCHEZ,

Petitioner,

v.

**ANITA TRAMMELL, WARDEN
OKLAHOMA STATE PENITENTIARY**

Respondent,

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Case no 5:10-cv-01171

PETITIONER’S MOTION TO APPOINT ERIC ALLEN

Petitioner, Anthony Sanchez, through counsel, Eric Allen, respectfully moves this Honorable Court to appoint Eric Allen under 18 U.S.C. § 3599(e). In support, Mr. Sanchez submits the following:

I. Background

Petitioner was sentenced to death in Cleveland County District Court in case number CF 200 325. This conviction and sentence was affirmed in *Sanchez v. State*, 223 P.3d 980 (Okla. Crim. App. 2009). A state post conviction was filed and denied in *Sanchez v. State*, Case No. PCD-2006-1011, Unpublished Order (Okla. Crim. App. April 10, 2010). An application for relief under 28 U.S.C 2254 was filed in this matter on October 3, 2011. An execution date has been set for September 9, 2023

Petitioner has alleged that communication has broken down with his current counsel. They have not been to visit him at the Oklahoma State Penitentiary in six years. They have not been in contact with him over the past six years except when Petitioner's father died and when they required an affidavit for in forma pauperis proceeding. Petitioner does not feel like they are acting in his best interest and does not trust the two lawyers appointed by the court. He has on two separate occasions provided a written request for the lawyers to remove themselves from the case. *See attached*. To date, they have not yet removed themselves from the case requiring this motion. Counsel himself has not spoken to Petitioner but has had exhaustive conversations with his spiritual advisor. Counsel does believe that he can be up to speed and prepared for the clemency hearing which is set in August.

He has requested that undersigned counsel as well as Greg Gardner, an attorney from Boulder, Colorado be allowed to substitute in for the clemency hearing.

Now, undersigned counsel seeks appointment to further defend Mr. Sanchez. And the Director no longer opposes his appointment. *See Certificate of Conference*, below.

II. Proposed counsel's qualifications are exemplary, satisfy § 3599's representation standards, and will aid this Court in reaching a fair and just result in Mr. Sanchez's habeas litigation.

To be qualified to represent a capital-habeas petitioner, appointed counsel “must have been admitted to practice in the court of appeals for not less than five years, and must have had not less than three years’ experience in the handling of appeals in that court in felony cases.” 18 U.S.C. § 3599(c). And “[w]ith respect to [the appointment requirements], the court, for good cause, may appoint another attorney whose background, knowledge, and experience would otherwise enable him or her to properly represent the defendant” § 35599(d).

Attorney Allen has represented felony clients in the state of Ohio for the past twenty two years. These felonies include aggravated murder and other serious offenses. He has represented people charged with serious felonies, including aggravated murder on appeal numerous times. He also has represented individuals charged with serious felonies in post-conviction matters.

He is a member in good standing in a number of federal courts including:

- Northern District of Ohio
- Southern District of Ohio
- Northern District of Illinois
- Eastern District of Michigan
- Northern District of Texas

- Southern District of Texas
- Western District of Texas
- Fourth Circuit Court of Appeals
- Fifth Circuit Court of Appeals
- Sixth Circuit Court of Appeals
- Seventh Circuit Court of Appeals
- United States Supreme Court
- United States Court of Claims

This experience also includes assisting in representing a number of individuals charged with capital crimes at the trial level, including *State of Ohio v Marvin Lee Smith (Madison County, Ohio)*, *State of Ohio v Glenn McCoy (Muskingum County, Ohio)*, and *State v Wesley Park (Knox County, Ohio)*. It should be noted two of these cases resolved with a plea prior to trial. Another resulted in the defendant being spared the death penalty due to intellectual disability.

Mr. Allen has represented capital defendants in the habeas process in Ohio. These include *Monroe v Houk*, 2009 U.S. District Lexis 85259 and *Cooley v Strickland*.¹

¹ While not named as counsel in the federal proceedings, he assisted counsel with the case and eventually filed a number of state proceeding motions on Mr. Cooley's behalf.

Mr. Allen was counsel in a capital-habeas cases in Texas as pro bono counsel: *Chanthakoummane v. Davis*, 4:13-cv-00067-ALM (E.D. Tex.). In addition, he represented capital-habeas petitioners at the state-level in Alabama: *Ex parte Riley*, No. CR-16-0207 (Ala. Crim. App.); *Ex parte Shanklin*, No. CC-2010-76.60 (Cir. Ct. Walker County); *Ex parte White*, No. CC-2009-001813.60 (Cir. Ct. Jefferson County); *Ex parte Scheuing*, No. 11-CC-2009-000426.60 (Cir. Ct. Calhoun County); and *Ex parte Wimbley*, No. CC-2009-170.60 (Cir. Ct. Washington County) .

Mr. Allen has taught at capital defense seminars including for the Ohio Association of Criminal Defense Lawyers and the Trial Lawyers College Death Penalty Seminar (Now known as the Gerry Spence method) .

Section 3599 requires the Court to appoint qualified counsel to represent Mr. Sanchez. To be qualified, attorneys must have practiced in the court of appeals for at least five years and have had three years of experience handling felony cases at that level. 3599(c). And for good cause, the Court can appoint an attorney “whose background, knowledge, or experience would enable him or her to properly represent the defendant, with due consideration to the unique and complex nature of the litigation.” 3599(d).

Mr. Allen qualifies under subsection (c) or (d) of section 3599. First, he has been a member of federal courts of appeal for over ten years. And he has handled felony appeals for the same amount of time.

Mr. Allen has experience with filing clemency petitions with the parole board as part of his post-conviction practice. This includes presenting the petition for Richard Cooley prior to his execution in 2008. It also includes preparing clemency petitions for John Henry Ramirez and Kosol Chanthakoummane in Texas.

Finally, Mr. Sanchez wants Mr. Allen to represent him.. He is willing to accept this appointment.

PRAYER FOR RELIEF

Eric Allen , at the urging of the Petitioner, Anthony Sanchez, respectfully requests that this Honorable Court appoint him as counsel for Mr. Sanchez in this matter under 18 U.S.C. § 3599(e) at the highest available payment rate.

Respectfully submitted,

/s/ Eric J. Allen
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CERTIFICATE OF CONFERENCE

On May 9, 2023, the undersigned conferred with Jennifer Miller, counsel for the Warden, who indicated she does not oppose this motion.

/s/ Eric Allen
Eric Allen

CERTIFICATE OF SERVICE

I certify that on May 18, 2023, I filed a true and correct copy of this document was sent by electronic mail. A “Notice of Electronic Filing” was sent to all counsel of record.

/s/ Eric Allen
Eric Allen

I, Anthony Castillo Sanchez #275098

Do not want Mark Barrett or Randy
Coxne Representing Me. They are not working
in my best interest,

Respectfully,
Anthony Sanchez

2-3-23

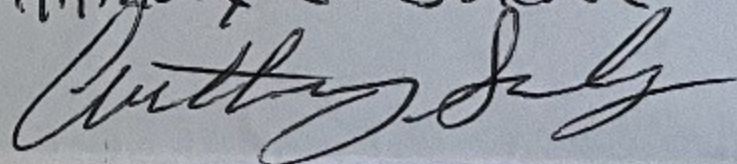
March 2023

Dear Mark Barrett,

Due to sustained neglect I have lost all confidence in your services. For over six years I did not hear from you. In the last few months I have tried to give you another chance, you have done nothing to regain my trust. That is why I am firing you and substituting you with Attorney Greg Gardner and Attorney Eric Allen as my counsel for the entirety of my case. Including all remaining legal appeals and clemency.

Respectfully Submitted

Anthony C. Sanchez


Subscribed and Sworn before me this 15 day of March

Zaki Pope
Notary Public

Commission Expires: 3/16/26Commission Number: 18002752